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09/931,497	08/16/2001	Timothy Turner	400 P 1029	3669

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EXAMINER

NEWHOUSE, NATHAN JEFFREY

ART UNIT PAPER NUMBER

3727

DATE MAILED: 10/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/931,497

Applicant(s)

TURNER ET AL.

Examiner

Nathan J. Newhouse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 25 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23,24,26-30 and 34 is/are allowed.
- 6) ☒ Claim(s) 1-7,9,11-19,31-33,35-38 and 40-43 is/are rejected.
- 7) ☒ Claim(s) 8,10,20-22 and 39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

It is to be noted that applicant has withdrawn claim 25. It would appear that is in error and claim 25 should have been canceled as the subject matter of this claim is in claims 23-24.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the apex of the concave annular bend "approaching" the public side of the peripheral edge of the central panel (claim 33) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 33 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one

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skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 33 is rejected as the originally filed specification does not describe and/or show the apex of the concave annular bend “approaching” the public side of the peripheral edge of the central panel. The specification and drawings show the apex in contact or engaging the public side of the peripheral edge of the central panel. This is a new matter rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-7, 9, 11-17, 32 and 35-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Sergeant (US 5,950,858).

Sergeant teaches a can having an end with a central panel (10) with a tear panel (14) defined by a score (12) and a pull tab (16). The end has a curl (20), a circumferential chuckwall (located above the outer wall of the countersink—see applicant’s arguments filed 8/14/03) and a transition wall (countersink). This transition

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wall has a fold portion (22). The fold portion has a first end portion (24 and portion of countersink between chuckwall and 24) and a second end portion (26)

With respect to claims 3 and 13, see the embodiments of figures 3-5.

With respect to claims 4 and 14, see the embodiments of figures 3-7. The length is the height of the folds in these embodiments.

With respect to claims 5 and 15, see the any embodiments of figures as the chuckwall extends longer than the thickness as shown by figures 2-8.

With respect to claims 6 and 16, see figure 3 that shows a concave bend extending downwardly from the chuckwall(bottom of countersink) and an annular convex bend (between 24 and 26).

With respect to claims 7 and 17, see figure 3 which shows a third bend (between 26 and 10).

With respect to claim 9, the annular concave bend in engagement with peripheral edge of central panel as these two portions are connected together.

With respect to claims 35-38, the method of making the can end of Sergeant must inherently have hinge points. The curved surfaces of the folds in the various different embodiments are where the folds must initiate and therefore these curved surfaces are the hinge points.

6. Claims 12-19, 31-33, 35-38 and 40-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Saunders (US 3,525,455).

Saunders teaches an easy open can end (see col. 1, lines 46-55) having a central panel (28), a curl (27), chuckwall (30) extending downwardly from the curl, and a

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transition wall having a fold portion with a first end portion (37) and a second end portion (35). The transition wall further has a concave bend (40), convex bend (38) and a third bend (46).

With respect to claims 35-38, the method of making the can end of Saunders must inherently have hinge points. The curved surfaces of the folds in the various different embodiments are where the folds must initiate and therefore these curved surfaces are the hinge points.

7. Claims 1-6, 9, 11-16, 31-32 and 35-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Chasteen et al. (US Pub. No. 2002/0158071).

Chasteen et al. teaches a can end (2) having a central panel (14) with a tear panel (34) defined by a score (32) and a pull tab (30). The can end has a curl (4), chuckwall (6) extending downwardly from the curl, and a transition wall (8) connecting the chuckwall with the perimeter edge of the central panel. The transition wall has a fold portion with a first end portion (10) directly connected to the chuckwall and a second end portion (12) connected to the central panel.

With respect to claims 3, 11 and 12, see figure 2.

With respect to claims 5 and 15, prior to affixing the can end to the beverage can, the chuckwall extends downwardly at an obtuse angle from the curl.

With respect to claims 6 and 16, see figure 1. The annular concave bend extends downwardly from the chuckwall (at 8 in figure 1) and an annular convex bend extends upwardly from the annular concave bend and is interconnected to the central panel (between central panel 14 and annular concave bend at 8—shown in figure 1).

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With respect to claim 9, the annular concave bend (at 8—figure 1) is in engagement with the peripheral edge of the central panel as it is connected with the central panel.

With respect to claim 32, the fold portion extends along a portion of the chuckwall as the fold of Chasteen et al. extends along the thickness of the chuckwall.

With respect to claims 35-38, see figures 4-5 and the method of making the can end of Chasteen et al. must inherently have hinge points. The curved surfaces of the fold are where the fold must initiate and therefore these curved surfaces are the hinge points.

Allowable Subject Matter

8. Claims 8, 10, 20-22 and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 23-24, 26-30 and 34 allowed.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.


Nathan J. Newhouse
Primary Examiner
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